

at times in situations where the customary services of the Army and Navy are not available. The officer and enlisted personnel should be experienced in the duties which they are to perform and familiar with the practices and procedures of the Army and Navy. While desirable, it is not vital that they have training or experience in civil affairs.

f. Functional Officers. Functional staff assistants and specialists should have both professional training and operating experience in their particular field, such as public health, public utilities, transportation, and others. Those assigned to theater staffs and other high echelons should be trained in civil affairs and in the characteristics of the territory. In lower echelons while training in civil affairs is desirable it needs not be more than a minimum.

29. TRAINING.

a. In the United States. Training of administrative and specialist personnel is conducted in schools of military government of the Army and the Navy. Military police schools for civil affairs training also are conducted by the Army.

b. In Theater of Operations. In the theater of operations, training for civil affairs duties is a function of command. Civil affairs personnel assigned to a particular territory in advance of the occupation should receive further intensive training. Such training should include, especially, instruction in the background of the particular area, the language and characteristics of the people, and in the civil affairs plans and orders for military government as they are made and issued. Insofar as practicable, the training should be given by officers having an intimate knowledge of the area and by the civil affairs staff drafting the plans and orders. Current Army and Navy intelligence and censorship reports should be made available and the assigned civil affairs personnel should be kept posted on necessary military aspects of the occupation plans. The military commander should take steps to assure that civil affairs officers receive all classified information pertinent to their duties.

SECTION V

PLANNING

30. GENERAL. Planning for the control of civil affairs in occupied areas is a responsibility of commanders assigned to the planning of military operations. Civil affairs planning, as a part of the planning of military operations, should be integrated with operational plans and integrated with the situation and problems to be met. These problems in civil affairs should be anticipated and provided for by plans and alternatives, flexible and subject to continuous change and adaptation during operations. Careful planning will lead the commander to issue the specific civil affairs orders suited to the expected situation. Planning will also reveal requirements for officers, enlisted personnel and materials, requisitions for which should be forwarded in ample time.

31. BASIS OF PLANNING. Information required for preliminary planning of military government will be furnished by the War, Navy, and other departments of the United States or allied governments. Information for later planning in the theater of operations will be supplied by the intelligence and civil affairs branches of the various services. Such information will include, in addition to such parts of the military plan as may be necessary to civil affairs planning, the following concerning the area to be occupied:

- a. The recent history of the country.
- b. The theory and actual operation of its government including the titles, functions, backgrounds and names of officials in a position to help or hinder the mission of the occupying force.
- c. All facts which may affect the mission, such as political parties, factions and cleavages, unofficial persons wielding political or other power both in the central government and in political subdivisions.
- d. Geography, including location, area, topography, climate, and natural resources.
- e. Characteristics of the inhabitants of the country such

as numbers and proportions by race, religion, and political or other affiliation, and factors indicating probable attitudes toward the presence of the occupying force.

f. Local customs and traditions, sensitive points, taboos, and national or religious observances such as holidays and sacred or forbidden places.

g. Standards of living including health and dietary habits which might affect the occupying forces.

h. Administration of justice, including tribal customs and traditions.

i. Forms of social courtesy towards different ranks among the inhabitants.

j. Character of the population as to orderliness and obedience to law.

k. Character of the police force and fire departments.

l. Regulations and conditions as to sales of liquor and narcotics.

m. Existence of subversive or enemy groups, potential saboteurs and spies.

n. Organization and reliability of the civil courts in which offenses by civilians might be tried.

o. The degree of development of agriculture and forests, industry, mining, labor conditions, particularly as they will affect material, labor, and other supplies for the task force.

p. Financial situation, including banks, condition of banks of issue and commercial banks, rates of exchange, amount and soundness of currency in use.

q. Current economic situation, amounts of goods available for purchase, and the probable effect of the presence of a well-paid occupying force.

r. Food supplies, including their sufficiency for the population and for the occupying force.

s. The availability and adequacy of institutions, facilities, materials, services, equipment and labor, likely to affect the mission of the force or to be required by it, such as the capacity and condition of public works and utilities, including railroads, canals, harbors and docks, highways, bridges, rolling stock, motor vehicles, gas, electricity, water works, and sewerage.

t. Extent, location, and condition of the postal telegraph, telephone, and radio services.

u. Public health, including sanitary condition prevalence and control of disease, protection of food, milk and water supplies.

v. **Civilian Defense.** See paragraph 12d.

32. RESPONSIBILITY FOR PLANS.

a. **War and Navy Departments.** The Civil Affairs Division in the War Department and the Office for Occupied Areas of the Navy Department, subject to the direction of the Joint or Combined Chiefs of Staff, are responsible for the integration of the civil affairs plan with the strategic and logistical plans for military operations and for liaison with civilian agencies of the United States government. The civil affairs plan of the War and Navy Departments, usually brief and general, is transmitted to the theater commander in the form of a directive. It contains the broad political and economic policies to be observed.

b. **Theater of Operations.** Civil affairs planning for his command is a responsibility of every officer charged with civil affairs control, whether he be the theater commander, the commander of a task force, a tactical unit, or a military administrative area, or the chief of a civil affairs group. The duty of actual preparation of the plan in accordance with the directive of the commander, usually devolves on the chief of the civil affairs section of the staff. According to circumstances, the commander approves the plan, with or without modification, before it is translated into orders, or approves the civil affairs order which results from the planning. It is desirable that civil affairs plans of theater and task force commanders be transmitted to the Joint or Combined Chiefs of Staff for confirmation.

33. FORM OF CIVIL AFFAIRS ORDERS.

a. **Of Theater and Task Force Commanders.** These commanders may, according to circumstances issue civil affairs orders as annexes to administrative or operation orders for military operations, or as routine orders when there is no direct connection with an operation.

b. Of Military Administrative Area Commanders.

These commanders do not ordinarily issue field, administrative, or operation orders, and their civil affairs orders will ordinarily be issued independently of operations. Consequently civil affairs matters will usually appear in routine orders.

c. Of Operational Unit Commanders. Civil affairs orders issued by operational unit commanders usually appear in a civil affairs annex to the administrative order which accompanies a field or operation order; in such case it is referred to in the administrative order. If short, it may be included in the final paragraph of the administrative order, instead of in an annex. When new administrative orders are issued, a new annex is also issued if necessary; if not, the final paragraph of the administrative order may include the statement; "Civil affairs, no change." The annex is signed by the chief of staff, the executive officer, or the appropriate naval staff officer.

d. Of Chief Civil Affairs Officers. These officers ordinarily issue routine orders.

e. Distribution of Civil Affairs Orders. Civil affairs orders should be distributed to all subordinate commanders and chiefs of civil affairs groups to whom missions are assigned therein, to the commanders of all units in whose zones of operations civil affairs missions will be carried out, to the chief of the civil affairs section of the staff of the issuing unit, to the general staff sections thereof, to such special staff sections as are affected, and to such other persons as the commander may direct.

34. CONTENT OF CIVIL AFFAIRS ORDERS.

a. General. An order should direct subordinates what to do and when and where to do it, furnish adequate personnel and materials according to plan. Subordinates will be held responsible for execution.

b. In Detail. Some or all of the following may appear in a civil affairs order, according to circumstances (the list is not exhaustive) :

(1) Information needed in order to insure intelligent execution of the field or operation order, if not already

known to the subordinate or included in an accompanying field or operation order. This may include information of enemy forces, of the enemy population, and any available support from agencies not under the command of the issuing officer.

(2) The general plan of the commander, except so far as it is already known or is included in an accompanying order.

(3) Subordinate officers charged with civil affairs control; creation of civil affairs command or civil affairs groups; attachments and detachments, with time and place of each, including military police, marines, or shore patrol; missions of each.

(4) General instructions governing all subordinates; such as—

(a) Security measures to be taken.

(b) Controls to be established over civilian supply.

(c) Measures to be taken to restore public order.

(d) Records to be impounded and their disposition.

(e) Directions as to control or disposition of public funds.

(f) Directions as to authority to make requisitions.

(g) Directions as to handling of enemy-owned property.

(h) Currency to be used and rate of exchange.

(i) Treatment of, or conduct toward, enemy nationals and local population and officials.

(j) Special measures to be taken with regard to public institutions; banks, industry, commerce, labor, and other activities.

(k) Authority to appoint military courts, and to approve and execute sentences; rules as to procedure; limits of punishments.

(l) Authority to appoint and remove local officials.

(m) Proclamations and general ordinances to be published. (These may appear as an appendix to the civil affairs annex or routine order).

(n) Authority to issue ordinances of local application.

(o) Reports to be made; when and where.

(p) Location of the issuing commander.

SECTION VI

PROCLAMATIONS, ORDINANCES, ORDERS, AND INSTRUCTIONS

35. INITIAL PROCLAMATION.

a. Issuance. While not mandatory under international law, as soon as practicable after commencement of an occupation, the theater commander, or an authorized subordinate, should issue to the inhabitants of the occupied territory a proclamation informing them of the fact of occupation, the extent of territory affected, and the obligations, liabilities, duties, and rights of the population under military government. Generally, this proclamation will have been prepared in advance and in accordance with directives from higher authority. Where occupation of a large area is proceeding by stages, it is proper to state that the proclamation will be applicable in adjacent areas as they are occupied.

b. Form and Character. (1) The proclamation should be brief and in simple terms. It should be published as widely as possible in English and in the languages of the occupied area. Any translation should be idiomatic, clear, and concise.

(2) The tone and character of the proclamation will vary in different territories and will depend upon a number of factors. Among them will be: the military and political objectives to be attained in the occupied and other territories; the strategic situations; the existence or nonexistence of a recognized government on the ground or in exile; the composition and disposition of the occupying forces whether American or allied; the attitude of the inhabitants; historical and psychological considerations; and the extent to which control over civil affairs must be exercised in the particular territory. It is probably advisable to address the people of a major enemy firmly and bluntly, but the language should not be vindictive or needlessly offensive. In other territories, inhabited by a nonhostile population which is being freed from enemy domination, the procla-

mation will be more friendly in character and may emphasize deliverance from a common enemy.

(3) In occupations of neutral or allied territory, lately held by an enemy, a manifesto may also be issued by the legitimate government supporting the occupation and calling upon officials and inhabitants to cooperate and to obey the rules laid down by the commanders of such forces. Such manifestos are not legally necessary, but are issued to promote cooperation of the population with the occupying forces. In occupations of this type, the theater commander will usually clear such manifestos with the Joint or Combined Chiefs of Staff.

c. Contents. The initial proclamation will vary in content according to the circumstances of the occupation. The important items to be covered are the state of affairs which exists, a definition of the area and peoples to which the proclamation applies, the extent to which the civil administration will be affected, the manner in which the inhabitants are to conduct themselves, and the measures which will be resorted to by the military government. It is impracticable to outline the contents of proclamations for all types of occupations. In definitely hostile territory the proclamation should, in general, cover the following points:

(1) **Declaration of the Occupation.** This is formal notice of the fact of occupation and of the territory in general over which the military government assumes jurisdiction.

(2) **Purpose and Policy of the Occupation.** It may be advisable to include a statement as to the purpose and policy of the occupation. Political objectives should be included only pursuant to instructions from higher authority.

(3) **Supremacy of Military Authority of Occupying Forces.** This is an essential prerequisite to the administration of any military government. It should be announced that a military governor has been appointed and that political ties with and obligations to the enemy government, if any, are suspended. It should be announced

that inhabitants will be required to obey orders of the theater commander and his subordinates and to abstain from all acts or words of hostility or disrespect to the occupying forces.

(4) Retention of Laws and Officials. It should be announced that, unless the military authority directs otherwise, local laws and customs will continue in force, local officials will continue in office, and officer and employees of all transportation and communication systems and of public utilities and other essential services will carry on with their regular tasks.

(5) Treatment of Inhabitants. Assurance should be given that persons who obey the instructions of the military authority have nothing to fear and will be duly protected in their persons, property, family rights, religion, and occupation; and that those who commit offenses will be severely punished.

(6) Resumption of Usual Occupations. Inhabitants should be instructed that they must continue or resume their usual occupations, unless specifically directed to the contrary. This will assist in the maintenance of law and order and restoration of normal economic conditions.

(7) Detailed Rules of Conduct. It is advisable to put the population on notice that further proclamations or ordinances will specify in detail what is required of the inhabitants and what is forbidden them to do.

(8) Miscellaneous. Other matters may be covered, if circumstances warrant. Proclamations published by previous military governments may also serve as useful guides.

d. Publication. Proclamations may be published by posting, publication in newspapers, broadcasting, or any other practicable method available in the particular territory. It may be advisable to publish them in the same manner as legal notices are published in the occupied area, or to create a new official publication devoted exclusively to actions of the military government and to provide that proclamations and ordinances become effective when they appear in such publication.

36. FURTHER PROCLAMATIONS AND ORDINANCES.

a. Issuance. As soon as practicable after the publication of the initial proclamation, the theater commander, or his authorized subordinate, will issue a detailed set of rules regulating the conduct of the population. These rules may appear as a proclamation, numbered in sequence with other proclamations, or as ordinances. As far as possible these rules will have been prepared in advance and in accordance with directives issued to the theater commander. Careful study should be made of the local laws, in order that necessary rules or ordinances, and only these, may be prepared, and in order that their full ramifications and effects may be understood.

b. Form and Character. The people of the occupied territory should be informed as to what they are required to do, what acts are forbidden, and in what courts they may be tried if they are charged with offenses. In general they should be warned of the penalties which may be imposed for disobedience. Offenses should be clearly and simply defined. These further proclamations or ordinances should be published in English and in the languages of the occupied area. Translations should be simple and clear. It may be necessary to have a general prohibition against all hostile or subversive acts to cover offenses not specifically mentioned. Great care must be exercised in connection with such regulation as it will mean very little to the population and will be subject to great variations of interpretation by the courts. As soon as several convictions for a similar offense under such regulation have been approved by the reviewing authority, that type of offense should be made the subject of a clearly defined proclamation or ordinance. In this way all forbidden acts which could reasonably be foreseen, or which have been pointed up by experience, will be clearly set forth as a guide to the courts and population.

c. Contents. Contents of further proclamations or ordinances will depend upon the stage of development of the people, their laws, customs, and institutions, and upon the military and political situation at the time of the occu-

pation. The rules laid down in the initial proclamations and ordinances are concerned primarily with the maintenance of law and order and the security of the occupying forces and their lines of communication. Additional rules or ordinances will be issued as necessary to cover a wide variety of subjects. Proclamations or ordinances may be amended or replaced, in accordance with experience. Frequent changes are to be avoided, as they may be interpreted by the inhabitants as indications of vacillations and weakness. In general, it is sound policy to be strict at the beginning of an occupation and gradually relax the requirements. Proclamations or ordinances should contain no provisions which it is not planned or not possible to enforce.

d. Delegation of Authority. Theater commanders may delegate their powers to issue proclamations or ordinances to subordinate commanders or civil affairs officers, placing such limitations upon the exercise of delegated authority as they see fit. It is generally advisable that considerable authority be delegated either to unit commanders or civil affairs officers who are actually located in the occupied territory. All ordinances of local application only will be signed in the name of the military governor.

e. Publication. Publication may be made as in the case of initial proclamations.

37. ORDERS AND INSTRUCTIONS. Authority to issue detailed orders and instructions to local officials should be delegated to unit commanders or civil affairs officers on the spot. Insofar as possible such orders and instructions should be in writing and copies retained. Oral orders and instructions may be given through interpreters or in the local language. A record should be kept of important ones. Except in emergencies, only the officer responsible for civil affairs control in a particular area, or his authorized subordinates, should issue orders or instructions to local officials. If an officer from a higher civil affairs echelon is sent into an area on a mission requiring contact with local officials, he should consult with, act through, the officer charged with local civil affairs control. Where efficient administration requires that high ranking local

civilian officials be permitted to continue a practice of transmitting orders directly to subordinate officials, some procedure should be established whereby the civil affairs officer immediately concerned is informed of such orders and is empowered to interfere and countermand when he believes such action to be necessary.

SECTION VII

MILITARY COMMISSIONS, PROVOST COURTS, AND CLAIMS

38. ESTABLISHMENT. When an area is occupied and placed under military government, the commanding officer in the theater of operations should establish military commissions and provost courts to try inhabitants for offenses affecting the military administration. These courts in general will not be circumscribed by the statutory and other rules governing courts martial; and their number, types, jurisdiction and procedure will be determined by the theater commander, subject to instructions from higher authority. The term "military courts," as used in this manual does not include "courts martial."

39. TYPES.

a. Customary Types. (1) It has been customary for forces of the United States to provide for at least two types of military courts for the trial of civilians—military commissions and provost courts. The former deals with the most serious offenses, for which punishment by death or by long prison terms and heavy fines have been prescribed, while the latter deals with less serious cases.

(2) Military commissions may be appointed or convened to try specific cases, or as standing tribunals to hear all such cases. Their number and location will depend upon the volume of cases to be tried, the availability of officers to sit on such courts, the necessity for travel, the availability of witnesses, and the efficient administration of justice.

(3) Provost courts may also be appointed or convened to try specific cases, or as standing tribunals to hear various classes of lesser cases. Generally, a single type of provost court will be sufficient, although circumstances may warrant the creation of superior and inferior provost courts. Where there are a sufficient number of minor offenses in any locality to occupy the full time of one court, and enough of the more serious offenses cognizable by provost courts to occupy at least the part time of another court, it may be advisable to create two types of provost courts, in order to expedite the disposition of the large volume of minor cases. The number, types, and location of provost courts will depend, as with military commissions, upon such factors as the volume of cases, the availability of officers, the question of travel, the whereabouts of witnesses, and the speed and effectiveness with which justice can be administered. Therefore, for efficiency, a civil affairs officer exercising control over a particular area should delegate the power to bring to trial with expedition the majority of cases. A table of maximum punishments for specific offenses, as well as the power of remission vested in reviewing officers, should counteract any tendency toward inequality of punishments meted out by provost courts in different localities.

b. Other Types. If local conditions warrant, special military courts may be established for the trial of vagrants, prostitutes, juveniles, traffic violators, or other classes of offenders, or for civil cases (par. 42).

40. COMPOSITION.

a. Military Commissions. In providing for military commissions, which may consist of any number of officers, the commander will appoint not less than three except in extraordinary circumstances. In general, the rules for army or navy general courts martial will serve as a guide in determining the compositions of military commissions, including the designation of law members, trial judge advocates, and necessary assistants. The provision for a law member, with powers and duties similar to those of a law member of an army general court martial, promotes sound

decisions on matters of law and speed in procedure, and is recommended for such military commissions for both the army and the navy.

b. Provost Courts. A provost court will ordinarily consist of one officer who should, if possible, have legal training and experience. When it is necessary to create two types of provost courts, it may be advisable in more serious cases to appoint three members to superior provost courts. Provision may be made for standing special judge advocates or defense counsel, depending upon the type and volume of cases which are tried before these courts.

c. Other Types. The purposes for which other types of military courts are created, as well as the kinds and the volume of cases heard by them, will determine their composition and the need for such special court personnel as judge advocates, defense counsel, provost marshals and clerks. Ordinarily such courts will be constituted as provost courts.

d. Personnel. It is customary and usually advisable to appoint commissioned officers as members of military courts and as judge advocates and defense counsel. In general, where an army officer is the theater commander, he will appoint or authorize the appointment of army officers as members of such military courts; and where a naval officer is the theater commander, he will appoint or authorize the appointment of naval officers as members of such courts. There is no rule, however, which prohibits a theater commander from appointing officers from both branches of the service, either to sit on the same court or to sit on separate courts, within the theater under his command.

41. APPOINTING AUTHORITIES. Military commissions and provost courts may be appointed or convened by the officer in command in the theater of operations. He may delegate this power to subordinate commanders or civil affairs officers. In forward areas, in order to avoid delay, the extended confinement of prisoners, or the loss of witnesses especially in cases where immediate example is necessary, it is advisable to delegate such authority to

division, force or other unit commanders in forward areas and to civil affairs officers in both forward and rear areas. Whenever subordinate officers appoint or convene military courts, the orders establishing such courts should, but need not, recite the source of their authority.

42. JURISDICTION.

a. General. Military courts have jurisdiction only over such cases or classes of cases as are referred to them by the appointing or convening authority.

b. Over Persons. Military courts have jurisdiction over all persons within the occupied territory except those having diplomatic immunity, and except prisoners of war; but, unless there are cogent reasons to the contrary in a particular case, persons subject to military or naval law of the United States or its allies should be tried by court martial.

c. Over Offenses Directly Affecting Military Government. Military courts have jurisdiction over the following types of offenses:

(1) Offenses against the laws and usages of war.

(2) Violations of the proclamations, ordinances, regulations or orders promulgated by the theater commander or by his authorized subordinates.

d. Over Offenses Against Local Criminal Laws. If the criminal courts of the occupied territory are open and functioning satisfactorily, they should ordinarily be permitted to try persons charged with offenses against local criminal laws, not involving the rights, interests, or property of the United States or other person serving with the occupying forces and subject to military or naval law of the United States or of countries allied with the United States. The theater commander or his authorized subordinate may suspend proceedings in such local courts in any case or class of cases or may direct that such case or class of cases be tried by military courts. Such power should be exercised with respect to any prosecution inimical to the interests of the United States.

e. Over Civil Cases. If the civil courts of the occupied territory are open and functioning satisfactorily, they should

ordinarily be permitted to hear and determine civil cases, except claims or suits brought against the occupying force or its government over which they have no jurisdiction. If such courts are not functioning, and military occupation is likely to be brief, it will probably be unnecessary to make any provision at all for the disposition of civil cases. However, at his discretion, the theater commander may confer jurisdiction upon military commissions or provost courts to hear and determine civil cases or may establish separate courts for such cases, and may issue such regulations as to them and as to the execution of their judgments and decrees as he may deem proper. The law to be followed in civil cases is that of the occupied territory, with such modifications as the theater commander has been compelled to make.

43. BAIL. Admission to bail, and release without bail but with summons to appear for trial, are matters of discretion and not right. Admission to bail is uncommon in many parts of the world. If the commanding officer in the theater of operations deems it advisable, he may issue orders announcing in what cases, under what conditions, and by whom, persons awaiting trial by military courts may be admitted to bail, or released without bail but with a summons to appear for trial.

44. PROCEDURE.

a. General. Provision should be made to insure uniform procedure throughout the occupied area. It is advisable that military courts, in the trial of offenses directly affecting military government, be directed to follow the rules of evidence for Army or Navy courts martial. It is not required that this be done, however, as there may be instances when it will be appropriate to disregard such rules. At variance with United States procedure, most foreign courts permit interrogation of defendants on the witness stand. It may be advisable to follow this rather than American procedure in military courts. If defendants are thus interrogated they may, under Article of War 24, refuse to answer incriminating questions, but the Article does not prevent such refusal from being commented on.

b. Military Commissions. It is generally advisable to direct that military commissions follow the procedure of general Army or Navy courts martial, except where such procedure is plainly inapplicable. The allowance of peremptory challenges should not be necessary. Any requirements of unanimous vote for a death sentence may unduly impede the authority of military government. It may be advisable to curtail the extent of preliminary investigations.

c. Provost Courts. Provost courts should in general follow the procedure of Army summary courts martial or Navy deck courts, except where such procedure is manifestly inapplicable. If it is necessary to establish inferior provost courts, procedure may be simplified.

d. Special Courts. The procedure of other types of military courts will correspond to that specified for provost courts or military commissions, as directed by the appointing authority.

e. Trials. Trials should be had and judgments entered with the utmost dispatch consistent with fair administration of justice, particularly in cases where witnesses for or against the accused are likely to disappear. Accused persons should not be tried unless they are present in person at the trial.

f. Counsel. Accused persons should be allowed to retain counsel of their own choice and at their own expense. Ordinarily military counsel should be provided only for persons tried by military commissions. However, unreasonable continuances in order to obtain counsel should be prohibited.

g. Witnesses. The attendance of military witnesses may be obtained as in Army or Navy courts martial. Military courts should be empowered to compel the attendance of civilian witnesses, and to obtain the necessary assistance therefor from local officials, military police, and shore patrol, and appropriate commanding or civil affairs officers.

h. Interpreters. Proceedings should be conducted in the language most convenient under the circumstances. Where it is necessary, interpreters should be provided, so

that the accused, his counsel, and the personnel of the court are fully informed as to the entire proceedings.

i. Reporters. If available, shorthand reporters should be employed in all cases tried before military commissions, and in such cases tried before provost courts as the appointing or convening authority shall authorize.

j. Previous Convictions. A military court may be authorized to consider, after a finding of guilty and before imposition of sentence, evidence of previous convictions and sentences by military courts (American or foreign) or civilian courts. Evidence of conviction of an offense legally punishable by imprisonment for more than 1 year should be admissible without regard to the date of commission of such offense.

45. SENTENCES.

a. General. Sentences should be limited to those prescribed by the theater commander or his authorized subordinates. These will usually be issued in the form of a prepared table of maximum punishments in terms of fines or imprisonment, or both. This table should be issued to all military courts and in the discretion of the theater commander may be made public.

b. Military Commissions. In general, the sentences which military commissions should be authorized to impose will include fines, imprisonment at hard labor, and death.

c. Provost Courts. Sentences imposed by provost courts should be limited to fines or imprisonment at hard labor, or both, with appropriate limitations, such as \$5,000 and 5 years.

d. Additional Penalties. The following punishments may be imposed in addition to or in lieu of fines and confinement.

(1) Expulsion. Military courts may be authorized, in appropriate cases, to expel convicted persons from occupied territory.

(2) Confiscation. Military courts may be authorized in cases involving the unlawful purchase, sale, possession or use of property, to order the forfeiture of such property to the military government.

(3) Padlocking. Military courts may be authorized to close houses of prostitution, places where there is unlawful traffic in intoxicating liquor or narcotics, and other places where persons are found to be engaging in unlawful activity.

e. Confinement. The theater commander should issue orders concerning the confinement of convicted persons. Such orders will specify, among other things, the manner of imprisonment, the rules of conduct to be followed, and labor to be performed. Ordinarily, convicted persons should be confined within the occupied territory. The officer empowered to approve a sentence should designate the place of confinement.

f. Fines. All monies received as court fines will be held, accounted for, and disbursed according to prescribed procedure.

46. RECORDS.

a. Charges. It is advisable that charges be preferred by a person subject to military or naval law and on a "charge sheet." The charge sheet used by the Army (W. D., A. G. O. Form No. 115) may be used, with such changes and additions as may be necessary, or appropriate forms may be adapted from those contained in Naval Courts and Boards (1937). No oath to the charges should be required.

b. Military Commissions. Military commissions should keep records similar to those of Army or Navy general courts martial.

c. Provost Courts. The theater commander should prescribe the types of records to be made of various classes of cases tried before provost courts. In certain types of cases, it may be advisable to keep full records, with a complete transcript of all testimony. In others, a summary record may be kept on the back of the charge sheet. Where it is necessary to establish the inferior type of provost court, the latter procedure will generally be followed, and oral evidence will not be recorded.

47. REVIEW.

a. General. All records of trial by military courts should be examined by the appointing or convening officer or duly authorized subordinate, for the purpose of correcting injustices. Further review in the next higher echelon may be desirable in important classes of cases, and some cases may be directed for final review to the headquarters of the theater commander. No sentence of death should be executed until it shall have been confirmed by the theater commander or by an authorized subordinate, except that if a death sentence is imposed by an exceptional military court convened under naval authority, it must also be confirmed by the Secretary of the Navy. The reviewing authorities should be empowered to disapprove or vacate, in whole or in part, any finding of guilty; to mitigate, commute, remit, or vacate the unexecuted portion of sentences, in whole or in part; and to restore the accused to all rights affected by the findings and sentence.

b. Military Commissions. No sentence of a military commission may be carried into effect until its record shall have been examined by the staff judge advocate of the officer appointing the commission or his successor (see A. W. 46); nor may the sentence of any military commission be carried into effect until it shall have been approved by the appointing officer.

c. Provost Courts. The sentences of provost courts should be executed forthwith, subsequent prompt review sufficing to correct injustices which may occur and to prevent the repetition of errors.

48. CLAIMS ARISING IN OCCUPIED TERRITORY FOR DAMAGE CAUSED BY MILITARY PERSONNEL

(not including procurement claim).

a. General. In order that there may be prompt investigation and settlement of claims, the military governor should establish in his territory a claims service, under the direction of an officer, preferably with legal training and with experience in the investigation and settlement of claims. The chief of the claims service will be responsible for the preparation of regulations governing claims pro-

cedure and the operation of the claims investigating service. Prompt awards will greatly improve the attitude of the people toward the occupying forces.

b. Investigation. It is the duty of civil affairs officers to make prompt investigation and record of all accidents and incidents which may give rise to claims. This will prevent later disputes and the presentation of stale or unjustified claims through diplomatic or other channels.

c. Settlement of Claims—Army. (1) Occupied Enemy Territory. The rules under which claims are processed depends upon whether the award will be paid from United States funds or those of the military government. Since, in most cases, practically the entire population of enemy territory occupied by United States forces will consist of enemy nationals, claims will normally be chargeable to the military government and paid from funds of the military government, not United States funds. Such claims will be processed in accordance with regulations issued by the theater commander. The provisions of the act of 2 January 1942 (55 Stat. 880; 31 U. S. C. 224d) as amended by the act of 22 April 1943 (57 Stat. 66), and AR 25-90, and the provision of the act of 3 July 1943 (Public Law 112, 78th Cong.), and AR 25-25 do not apply to claims chargeable to such military government. In case claims are to be paid from United States funds the appropriate statutes and Army Regulations apply.

(2) Occupied Allied or Neutral Territory. As for claims in occupied enemy territory, the processing of claims in occupied allied or neutral territory depends upon the source of funds for payment. It is a matter of policy whether claims in occupied allied or neutral territory are paid by funds of the military government. If so, they may be processed in accordance with regulations issued by the theater commander and the statutes and Army Regulations cited in paragraph 48c(1) above, do not apply. Any claims which it is determined shall be chargeable to United States funds will be considered and allowed and paid, or disallowed, by a foreign claims commission under the provisions of AR 25-90 and AR 25-25, as the case may be.

The claims of all persons not members of the United States or allied military forces cognizable under the provisions of AR 25-90 or AR 25-25 should be subject to suspension of payment by general or special order of the military governor for such time as he may direct.

(3) Procedure. All claims for damage to, or loss or destruction of property, or for personal injury or death, cognizable under the provisions of AR 25-90 or AR 25-25, should be fully investigated and processed in accordance with the provisions of such regulations and AR 25-20. All such claims will be submitted to a foreign claims commission, appointed under the provisions of AR 25-90. Claims chargeable to the military government may be submitted to a foreign claims commission for processing even though not payable under AR 25-90; or such claims may be submitted to a board, commission, or other agency established by the military governor, which may be composed in whole or in part of officers of the United States Army, the United States Navy, or officers of allied forces.

(4) Territory Subject to Jurisdiction of the United States Reoccupied by United States Army Forces. As to territory subject to the jurisdiction of the United States occupied by the enemy and reoccupied by United States or allied forces, claims arising therein will be processed in accordance with the provisions of AR 25-25, whether or not a military government is established.

d. Settlement of Claims—Navy. In order that there may be prompt settlement of meritorious claims, commanding officers of occupied territories shall appoint claims commissioners to consider and decide claims against the United States for injuries to property or inhabitants of occupied areas arising out of noncombat activities of United States naval forces including civilian employees. If a claimant is a national of an enemy country or of one of its allies, there must be a determination by the claims commission or by the local military commander that the claimant is friendly to the United States, before his claims may be allowed. A foreign claims commission may be appointed to consider each claim as presented, or consti-

tute a standing claims commission to consider all claims presented to it. A commission will consist of not more than three commissioned officers of either the Navy, Marine Corps, or Coast Guard. Claims of \$500 or less may be heard by a commission consisting of one officer. Claims between \$500 and \$5,000 shall be heard by a commission of three officers. Decisions involving payments of \$2,500 or less are final, while decisions involving payments of \$2,500 to \$5,000 are subject to review by the commanding officer. The Secretary of the Navy may, if he deems any claim in excess of \$5,000 to be meritorious, certify such amount as may be just and reasonable to Congress as a legal claim for payment. Claims accruing subsequent to 1 May 1943 must be filed within 1 year after the occurrence of the injury which is the basis of the complaint. The fact that the act giving rise to the claim may constitute a crime does not bar relief. Contributory negligence of the claimant has such effect in the way of defeating or reducing claimant's recovery as it would have under local law. No formal procedure is prescribed for the conduct of the hearing on claims, but the instructions in Naval Courts and Boards (1937) governing the procedure of Courts of Inquiry and Boards of Investigation should be used as a guide. The claims commission shall forward to The Judge Advocate General for review its findings and recommendations on all claims in which total damage exceed \$5,000 and where the claimant refuses to accept that amount in settlement of his claim. Claims within the jurisdiction of the Commission, but disallowed, shall also be forwarded to The Judge Advocate General. The instructions and regulations of the Secretary of the Navy concerning foreign claims commissions appearing in the 15 May 1943 issue of Navy Bulletin shall be followed by all commanding officers and their subordinates in occupied territories. An Army claims commission may handle foreign claims for the Navy if requested to do so and vice versa. With respect to claims payable from funds of the military government as distinguished from claims approved by a foreign claims commission and payable out of United States funds reference is made to paragraph 48c.

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